

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

BC Media Funding Company II)	
Media Funding Company)	Civil Action No. 1:08-cv-6228 RPP
)	
Plaintiffs)	
)	
v.)	
)	
Frank Lazauskas, Michael L. Metter)	
Leonard Moscati and E. Michael Tisani)	
)	
Defendants)	

**MOTION FOR ORDER REQUIRING PLAINTIFF
TO RE-PLEAD**

Defendants, by and through their undersigned counsel, respectfully move this Court for an Order pursuant to Federal Rule of Civil Procedure 81(c) requiring Plaintiffs to replead within thirty (30) days of the granting of this Motion. The grounds for this Motion are as follows: This civil action was removed to this Court pursuant to 28 U.S.C. Section 1441(a). The Plaintiffs commenced this action by Notice of Motion for Summary Judgment in Lieu of Complaint in the Supreme Court for the State of New York. Therefore, there is no complaint in this action as required by Federal Rule of Civil Procedure 3, and the Defendants are unable to file a responsive pleading as required by Federal Rules of Civil Procedure 7 and 12. Unless the Plaintiffs are ordered to file a complaint, the pleading in this civil action cannot proceed as required by the Federal Rules of Civil Procedure.

Pursuant to Local Civil Rule 7.1(a), the Defendants additionally request that this Court waive the requirement for the filing of a memorandum of law, on the grounds that this Motion is in the nature of an initial request for extension of time to file a responsive pleading to the complaint and therefore raises no disputed issues of law which require briefing.

THE DEFENDANTS

Dated: July 15 2008

By ./s/ Scott D. Rosen
Scott D. Rosen (SR1545)
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CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of July, 2008 a copy of the foregoing Motion for Order Requiring Plaintiff to Re-Plead was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF System.

/s/ Scott D. Rosen
Scott D. Rosen